



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed December 1, 2015, under Wis. Stat. § 48.64(4), to review a decision by SaintA in regard to foster care transportation reimbursement, a hearing was held on January 7, 2016, by telephone.

The issue for determination is whether the foster home agency has discretion in paying mileage to foster parents.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: [REDACTED]
SaintA
6737 W. Washington St., Suite 4400
West Allis, WI 53214

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County who operates a treatment foster home.
2. Petitioner has a foster child placed by SaintA, a foster agency. SaintA pays petitioner 35 cents per mile to transport the child by car. Petitioner has another foster child placed by a different agency. That agency pays 57.5 cents per mile for transportation of that child.
3. Petitioner attempted to discern from SaintA why its transportation rate was lower, but received only the response that 35 cents has been the agency payment for a number of years.

DISCUSSION

Foster home licensing rules are found in Chapter 48 of the Wisconsin Statutes and Chapter DCF 56 of the Wisconsin Administrative Code. Wis. Stat., §48.64(4)(a) provides that the head of a foster home may appeal to the Division of Hearings and Appeals “any decision or order issued by an agency that affects the head of the foster home.” Technically I surmise that the mileage rate paid to a foster home for transporting a foster child is a decision that affects the head of the foster home, so there appears to be jurisdiction for the Division of Hearings and Appeals to hear this appeal.

██████ testified that the state foster home policy allows each placement agency to determine its mileage rate. SaintA has paid 35 cents per mile since 2005, and that is the rate paid to all foster homes by SaintA. Petitioner asked for something in writing, and after searching ██████ was unable to find any written policy within SaintA’s records. She was able to locate a foster parent mileage expenditure form (for irregular trips) that states the mileage rate of 35 cents per mile (a copy of which will be sent with petitioner’s decision).

I searched the Statutes and the Administrative Code and found nothing about mileage rates payable to foster homes. There is a provision in Wis. Admin. Code, §DCF 56.23(3) concerning exceptional payments, that the agency may make an exceptional payment to assist with transportation costs to the school the child was attending prior to placement in the foster home. That payment appears to be discretionary by the placement agency, and is outside the normal mileage rate. Petitioner described a situation with another foster payment who appears to have such an exceptional payment made for transportation to school, but that appears to have been negotiated between the foster payment and the SaintA case manager.

In the end, I must conclude that the mileage rate is an item negotiated between the placement agency and the foster payment. SaintA apparently pays all foster parents 35 cents per mile unless an exceptional rate is negotiated. I see no basis for the Division of Hearings and Appeals to order SaintA to pay a higher rate. The foster parent’s remedy, if she does not approve of the rate, is to refuse the placement.

CONCLUSIONS OF LAW

The mileage rate paid by a foster placement agency to a foster home is a discretionary item negotiated between the parties, and therefore the Division of Hearings and Appeals does not have authority to order the agency to pay a higher rate than it has agreed to pay.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

[REDACTED]

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

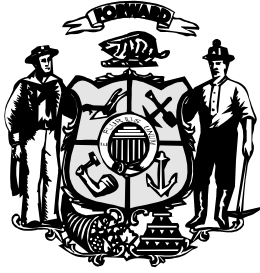
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 11th day of January, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 11, 2016.

SaintA
DCF - Foster Care